



5-19-0300  
0300  
PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Terry et al.	Attorney Docket:	0960-020
Serial No:	09/933,323	Examiner:	Not Assigned
Filed:	08/20/2001	Art Unit:	2611

**TITLE:**

CAPACITY SCALING AND FUNCTIONAL ELEMENT REDISTRIBUTION WITHIN  
AN IN-BUILDING COAX CABLE INTERNET ACCESS SYSTEM

**Filing of Declaration Subsequent to Filing the Application**

Assistant Commissioner for Patents  
Box Missing Parts  
Post Office 2327  
Arlington, Virginia 22202

This communication is in response to the "Decision of Petition" mailed November 5, 2001 for which a response is due no later than two months from filing. The Lead Petitions Examiner states that the above referenced application is being returned to the Office of Initial Examination for a "Notice to File Missing Parts of Non-provisional Application".

The situation addressed by the petition was that the application was filed without a signed declaration as the inventor died shortly before filing and no one had been officially named as legal representative of the deceased inventor. Thus, no legal representative was available to sign despite diligent search. The petition was denied and applicant has been instructed to submit the declaration in accordance for the rules set forth under 37 CFR § 1.42.

An executrix has been named for the deceased inventor and applicant now submits a declaration signed by the executrix in conformity with 37 CFR § 1.42.

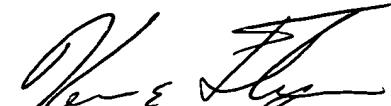
Applicant's attorney submits herewith the following:

1. A copy of an executed Declaration signed by Mrs. Dorothy Terry as Executor of the estate of her late husband John Brian Terry, deceased inventor of the above-identified application;
2. Papers documenting the legal status of Mrs. Terry:
  - a. A copy of the executed Letters Testamentary from the Probate Court of the State of Georgia;
  - b. A copy of the certification by the Clerk of the Probate Court dated August 16, 2001;
3. Fee transmittal (in duplicate) with a check for \$65; and
4. Return receipt postcard.

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Dated: November 30, 2001

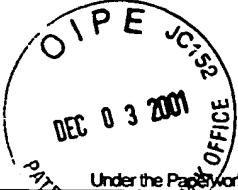
Respectfully submitted,



Kevin E. Flynn Reg. No. 37,325

Daniels & Daniels, P.A.  
P.O. Drawer 12218  
Research Triangle Park, NC 27709  
Voice 919.544.5444  
Fax 919.544.5920  
email Kflynn@daniels.com

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# FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$65.00)

Complete if Known

Application Number 09/933,323

Filing Date August 20, 2001

First Named Inventor Terry et al.

Examiner Name N/A

Group/Art Unit 2611

Attorney Docket No. 0960-020

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METHOD OF PAYMENT (check one)				FEE CALCULATION (continued)			
1. <input type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Deposit Account Number <input type="text"/>				3. ADDITIONAL FEES Large Entity Small Entity Fee Description Fee Paid Fee Code (\$ Fee Code (\$ Fee Code (\$ Fee Description Fee Paid 105 130 205 65 Surcharge - late filing fee or oath 65.00 127 50 227 25 Surcharge - late provisional filing fee or cover sheet. 139 130 139 130 Non-English specification 147 2,520 147 2,520 For filing a request for reexamination 112 920* 112 920* Requesting publication of SIR prior to Examiner action 113 1,840* 113 1,840* Requesting publication of SIR after Examiner action 115 110 215 55 Extension for reply within first month 116 390 216 195 Extension for reply within second month 117 890 217 445 Extension for reply within third month 118 1,390 218 695 Extension for reply within fourth month 128 1,890 228 945 Extension for reply within fifth month 119 310 219 155 Notice of Appeal 120 310 220 155 Filing a brief in support of an appeal 121 270 221 135 Request for oral hearing 138 1,510 138 1,510 Petition to institute a public use proceeding 140 110 240 55 Petition to revive - unavoidable 141 1,240 241 620 Petition to revive - unintentional 142 1,240 242 620 Utility issue fee (or reissue) 143 440 243 220 Design issue fee 144 600 244 300 Plant issue fee 122 130 122 130 Petitions to the Commissioner 123 50 123 50 Petitions related to provisional applications 126 240 126 240 Submission of Information Disclosure Stmt 581 40 581 40 Recording each patent assignment per property (times number of properties) 146 710 246 355 Filing a submission after final rejection (37 CFR § 1.129(a)) 149 710 249 355 For each additional invention to be examined (37 CFR § 1.129(b)) Other fee (specify) <input type="text"/> Other fee (specify) <input type="text"/>			
2. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other				FEE CALCULATION 1. BASIC FILING FEE Large Entity Small Entity Fee Description Fee Paid Fee Code (\$ Fee Code (\$ Fee Description Fee Paid 101 710 201 355 Utility filing fee <input type="text"/> 106 320 206 160 Design filing fee <input type="text"/> 107 490 207 245 Plant filing fee <input type="text"/> 108 710 208 355 Reissue filing fee <input type="text"/> 114 150 214 75 Provisional filing fee <input type="text"/> SUBTOTAL (1) (\$0.00)			
2. EXTRA CLAIM FEES Total Claims <input type="text"/> -20**= <input type="text"/> 0 x <input type="text"/> = <input type="text"/> 0.00 Independent Claims <input type="text"/> -3**= <input type="text"/> 0 x <input type="text"/> = <input type="text"/> 0.00 Multiple Dependent <input type="text"/> **or number previously paid, if greater; For Reissues, see below				Extra Claims Fee from Below Fee Paid Fee Description 103 18 203 9 Claims in excess of 20 102 80 202 40 Independent claims in excess of 3 104 270 204 135 Multiple dependent claim, if not paid 109 80 209 40 **Reissue independent claims over original patent 110 18 210 9 **Reissue claims in excess of 20 and over original patent SUBTOTAL (2) (\$0.00)			
				*Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$65.00)			

SUBMITTED BY		Complete if applicable		
Name (Print/Type)	Kevin E. Flynn	Registration No. (Attorney/Agent)	37,325	Telephone (919) 544 5444
Signature		Date	November 30, 2001	

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



# FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$65.00)

## METHOD OF PAYMENT (check one)

1.  The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:Deposit Account Number Deposit Account Name 
 Applicant Claims Small Entity Status  
 Charge Any Additional Fee Required   
 Under 37 CFR 1.16 and 1.17
2.  Payment Enclosed:
 Check  Money Order  Other

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee Code	Fee Description	
101	710	201 355 Utility filing fee	
106	320	206 160 Design filing fee	
107	490	207 245 Plant filing fee	
108	710	208 355 Reissue filing fee	
114	150	214 75 Provisional filing fee	
<b>SUBTOTAL (1) (\$0.00)</b>			

## 2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from Below	Fee Paid
	-20**=	0	= 0.00
Independent Claims	-3**=	0	= 0.00

 \*or number previously paid, if greater; For Reissues, see below  
 Large Entity Small Entity Fee Description

Large Entity	Small Entity	Fee Description
Fee Code	Fee Code	
103	18	203 9 Claims in excess of 20
102	80	202 40 Independent claims in excess of 3
104	270	204 135 Multiple dependent claim, if not paid
109	80	209 40 **Reissue independent claims over original patent
110	18	210 9 **Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2) (\$0.00)</b>		

Complete if Known	
Application Number	09/933,323
Filing Date	August 20, 2001
First Named Inventor	Terry et al.
Examiner Name	N/A
Group/Art Unit	2611
Attorney Docket No.	0960-020

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FEE CALCULATION (continued)				
3. ADDITIONAL FEES	Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
105	130	205	65 Surcharge - late filing fee or oath	65.00
127	50	227	25 Surcharge - late provisional filing fee or cover sheet	
139	130	139	130 Non-English specification	
147	2,520	147	2,520 For filing a request for reexamination	
112	920*	112	920* Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840* Requesting publication of SIR after Examiner action	
115	110	215	55 Extension for reply within first month	
116	390	216	195 Extension for reply within second month	
117	890	217	445 Extension for reply within third month	
118	1,390	218	695 Extension for reply within fourth month	
128	1,890	228	945 Extension for reply within fifth month	
119	310	219	155 Notice of Appeal	
120	310	220	155 Filing a brief in support of an appeal	
121	270	221	135 Request for oral hearing	
138	1,510	138	1,510 Petition to institute a public use proceeding	
140	110	240	55 Petition to revive - unavoidable	
141	1,240	241	620 Petition to revive - unintentional	
142	1,240	242	620 Utility issue fee (or reissue)	
143	440	243	220 Design issue fee	
144	600	244	300 Plant issue fee	
122	130	122	130 Petitions to the Commissioner	
123	50	123	50 Petitions related to provisional applications	
126	240	126	240 Submission of information Disclosure Stmt	
581	40	581	40 Recording each patent assignment per property (times number of properties)	
146	710	246	355 Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355 For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify)				
Other fee (specify)				
*Reduced by Basic Filing Fee Paid			<b>SUBTOTAL (3) (\$ 65.00)</b>	

Complete if applicable

Name (Print/Type)	Kevin E. Flynn	Registration No. (Attorney/Agent)	37,325	Telephone	(919) 544 5444
Signature				Date	November 30, 2001

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## DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

**Title of Invention** Capacity Scaling and Functional Element Redistribution Within an In-building...

As the below named inventor(s), I/we declare that:

This declaration is directed to:

The attached application, or  
 Application No. 09/933,323, filed on August 20, 2001  
 as amended on \_\_\_\_\_ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

### FULL NAME OF INVENTOR(S)

Inventor one: Dorothy Terry as Executor for the Estate of John Brian Terry

Signature: Dorothy Terry Citizen of: United Kingdom

Inventor two: Jeffrey A. Hales

Signature: Jeffrey A. Hales Citizen of: United States

Inventor three:  

Signature:   Citizen of:  

Inventor four:  

Signature:   Citizen of:  

Additional inventors are being named on \_\_\_\_\_ additional form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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STATE OF GEORGIA, FORSYTH COUNTY

PROBATE COURT

I, RACHEAL C. PRUITT, Judge/Clerk of the Probate Court of said County, same being a court of record and being the court formerly designated the Court of Ordinary, do hereby certify that I have compared the foregoing copy of Letters Testamentary-John Brian Terry, Estate.  
Dorothy Terry-Executor.

with the original record thereof, now remaining in this office, and the same is a correct transcript therefrom, and of the whole of such original record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Probate Court this the 16th day of August, 2001.

Racheal C. Pruitt  
Judge/Clerk, Probate Court

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STATE OF GEORGIA  
COUNTY OF FORSYTH

GEORGIA PROBATE COURT  
STANDARD FORM

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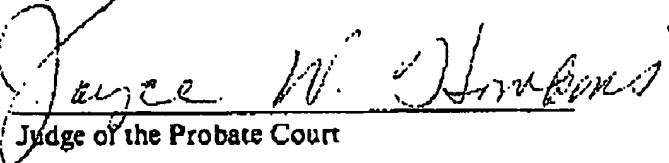
LETTERS TESTAMENTARY  
(Relieved of Filing Returns)By Joyce W. Hawkins, Judge of the Probate Court of said County.

KNOW ALL WHOM IT MAY CONCERN:

That on the 16th day of August, 2001, at a regular term of the Probate Court, the last Will and Testament dated Dec. 20, 1993, of John Brian Terry deceased, at the time of his death a resident of said County, was legally proven in SOLEMN form and was admitted to record by order, and it was further ordered that Dorothy Terry, named as Executor(s) in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executor(s).

NOW, THEREFORE, the said Dorothy Terry, having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased, according to the Will and the law.

Given under my hand and official seal, the 16th day of August, 2001.

  
Joyce W. Hawkins  
Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

Clerk, Probate Court

(Seal)  
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